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New York

SUMMARY RECORD OF THE 4th MEETING

Chairman: Mr. MUTHAURA (Kenya)

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The meeting was called to order at 10.20 a.m.

REQUESTS FOR HEARINGS

1. The CHAIRMAN said he took it that the Committee wished to grant the request for a hearing concerning agenda item 18 relating to Guam (A/C.4/50/5/Add.6).

2. It was so decided.

AGENDA ITEM 18: IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES (Territories not covered under other agenda items) (continued) (A/50/23 (Part V, chap. IX, and Part VI, chap. X); A/AC.109/2012, 2013 and Corr.1 and Add.1, 2015 and Add.1, 2016 and Add.1, 2017 and Add.1, 2019 and Add.1, 2020 and Add.1, 2021, 2022, 2025, 2028, 2029; S/1995/240 and Add.1, 404, 779)

Hearing of petitioners

Question of Guam

3. At the invitation of the Chairman, Mr. Teehan (Guam Landowners Association) took a place at the petitioners' table.

4. Mr. TEEHAN said that, although for 15 years representatives of the Chamorro people and of the elected leadership and non-governmental organizations of Guam had been speaking to the Committee during its consideration of the situation in the island, there had still been no perceptible impact on the colonial status of Guam, and the situation could become a tragic failure of the decolonization process during the International Decade for the Eradication of Colonialism.

5. Fifty years earlier, the list of Non-Self-Governing Territories had been a very long one, but, thanks to the decolonization process, many States whose nationals had once been heard by the Fourth Committee as petitioners and had pledged solidarity with the Chamorro people had become full Members of the United Nations.

6. The Pope had recently spoken of the economic colonization of the developing countries. His words served as a harsh reminder that the situation in the third world countries was a direct result of the control of their economies by the developed countries. As a Non-Self-Governing Territory, Guam was dependent on whatever support and protection, albeit limited, the third world countries were able to give it, but the people of Guam were extremely concerned that the neo-colonial status of those countries could be utilized to prevent them from supporting the rights of the Chamorro people. The situation in Guam, over which the Fourth Committee had oversight, must be clearly seen as a violation of the human rights of the inhabitants of a Non-Self-Governing Territory. In view of Guam's strategic value in support of the interests of the United States, the continuing refusal to grant the island sovereignty flouted the principles of democracy.

7. As for the situation in Guam, the processes taking place in the island could be viewed in different ways, but they were not necessarily reflective of the principle of justice, not to mention equal rights. That ran counter to Article 73 of the Charter of the United Nations. In that connection, it should be noted that, despite the statement by the United States that many of the contentious issues of land ownership were being resolved with the closure of certain military bases and the forthcoming release of the land occupied by those facilities, the fact was that no title to any lands had been transferred to Guam, nor was such an action likely to occur in the foreseeable future. Under federal legislation, there were many restrictions which prevented the release of those lands. Moreover, if the Chamorro people failed to meet the requirements imposed by the United States, they would have to compete with outside interests for the right to purchase land. Any action leading to the direct return of title to the lands to those families which had originally owned them was also prohibited.

8. The political leadership in Guam was attempting to resolve that complicated issue. Unfortunately, however, its efforts continued to be hampered by colonial structures which severely restricted its ability to enact equitable solutions. In that connection, he supported the proposal that the resolution to be adopted should include an appeal to the United States to accelerate the process of the return of land. He would suggest, however, that the resolution should also include a provision requiring that that process should be conducted without restrictions, as well as a provision calling for a visiting mission.

9. A significant step towards an interim solution to the problem would be the adoption of the proposed Guam Commonwealth Act. The ultimate solution, however, lay in the legitimate exercise by the Chamorro people of their right to self-determination and the subsequent structuring of a political system which would allow them to keep their own culture and take their place in the modern world in their own right.

10. Mr. Teehan withdrew.

11. At the invitation of the Chairman, Mr. Artero took a place at the petitioners' table.

12. Mr. ARTERO said that private property rights in Guam had been taken away by the Government. The forced confiscation of land had resulted in the people of Guam losing control of a significant part of the island, including the most productive lands. The people of Guam had been deprived of the opportunity to develop their own economy and social structure. Despite the statement by the Department of State that life expectancy among Americans was increasing, the people of Guam were dying at a young age from various diseases. As a result of the improper use of the land, the island, which had once been environmentally clean, had now become a dump laden with waste, including toxic waste which polluted the drinking water.

13. The fact that the taxes collected in Guam remained in the island did not mean that the island had its own system of representation in the organs of power. That arrangement had been decided upon unilaterally by the Federal Government. Tax systems were designed not only so that the Government could

collect money, but also to ensure the success of the economy over which the Government had control.

14. Giving a brief historical outline, he said that Guam had a strategic importance for the United States. Having taken control over Guam, the United States had pursued three objectives: to win the war; to test nuclear bombs at a safe distance from the United States; and to obtain land abroad at the lowest possible price to coordinate the nuclear testing.

15. After the Second World War, in a calculated action, private property rights had been blatantly violated through cavalier military manoeuvres and precious lands had been seized from a war-torn people. The United States had taken advantage of the people of Guam at their weakest moment, as they emerged from a devastating war. Taking lands without just compensation from people without representation had turned out to be a very simple matter.

16. Over half the lands taken had been left idle ever since for no good reason. Taken with those lands had been the livelihood of the people and adequate compensation had not been paid.

17. There was ample room for the local and national governments to coexist with the island people. If the people had been afforded their rights and their finite land resource, there could have been harmony and prosperity. But the economic freedom extinguished by the federal Government in 1944 was currently perpetuated by the local government.

18. The national Government and the local organs of power should free the land and the people in order to maintain the peace. Next to the right of personal liberty, the right to property was the most valuable right in building up society in Guam. Righting the wrongs would bring about stable economic growth. It would be an excellent replacement for the counterproductive military economy, which had no place in the new world order.

19. Mr. Artero withdrew.

20. At the invitation of the Chairman, Mr. Orsini (Senator, Twenty-third Guam Legislature) took a place at the petitioners' table.

21. Mr. ORSINI said that political, economic and social changes were taking place in the world, leading to a new world order. What had once been enforced politically or militarily was currently enforced economically. By and large, alliances were economic, not military in nature; allies were economic partners, not countries with similar ideologies.

22. Guam's neighbours had the world's fastest growing economies. They were confident that their standard of living was improving, that their poor would soon be employed, that their children would become better educated, and that they would be taken seriously as economic actors on the world stage.

23. By changing the political status of Guam, its people could become part of that trend. They could do so, however, only if they could forge their own destiny, pursue their own aspirations, make their own decisions, establish their

potential and create their own economic interdependence with nations of their own choosing.

24. Guam did not wish to sever completely its political relationship with the United States. It believed that the United States military presence provided regional stability. Guam also shared philosophies and ideologies with the United States. At the same time, it wished to begin the process of exploring economic freedom.

25. Temporary commonwealth status, together with self-determination, would not only afford political latitude, but would allow Guam to achieve the economic freedom with which it could establish a higher standard of living for its people. The administering Power, however, was impeding the long-term economic growth of Guam. For example, Guam was precluded from participating in regional trade organizations such as the Asia-Pacific Economic Cooperation Council. In addition, the Jones Act, an anachronism totally contradictory to the General Agreement on Tariffs and Trade (GATT), remained in place.

26. More than ever, Guam needed to chart its own destiny, to be free to allow ships other than those from the United States to deliver goods to the island, and to forge its economic future on the basis of cooperation and trade. Guam wanted to be able to enter into economic alliances with its regional neighbours without the involvement of the administering Power and to regulate its own immigration and environment. At the same time, it wanted to start the dialogue that would give it the freedom to act on its own while remaining allied with the United States. The time for Chamorro self-determination had come.

27. With the help of the United Nations and the United States, Guam could realize its fullest potential. That could be achieved only through Chamorro self-determination.

28. Mr. Orsini withdrew.

29. At the invitation of the Chairman, Ms. Rios (Guahan Landowners United, Inc.) took a place at the petitioners' table.

30. Ms. RIOS, representing the only non-profit landowners' organization on Guam, said that land conflicts were continuing on Guam, as the administering Power, finding itself unable to support and maintain financially the real estate it had taken from private landowners, had suddenly decided to return large portions of its landholdings and military facilities to the Government of Guam. What had been taken from private landowners with little or no compensation was currently being transferred from the Federal Government to local government, with stringent requirements added in order to avoid any implications of guilt or liability. In accordance with those requirements, all lands returned had to be used for public purposes or as economic development parcels. That meant that the process had to be carried out under one of the federal programmes. Even if the local government were fully sympathetic to the former landowners and wanted to return their lands to them, the administering Power prevented it from doing so, by insisting on the aforementioned requirements.

31. The administering Power intended to complete the return of previously confiscated land within a brief period of three to eight years. A people deprived of an entire pre-war self-sufficient economy and forced by the lack of farmland into a humiliating dependence on the administering Power was now faced with the well-nigh impossible task of absorbing the loss of thousands of jobs and resisting certain economic decline. The population was divided: Chamorro against Chamorro, insider against outsider, citizens of one category against citizens of another. The administering Power was operating, as always, according to the maxim "divide and rule". The confiscation of over 63 per cent of the island's prime private properties had caused major social havoc: many families that had lost their homes had even been forced to leave the island. In order to deal with the consequences of a rapidly declining military economy, the land must be restored to the people; it must be circulated again in the economy by being returned to its lawful owners. The island could then take care of itself through taxation, despite the gradual loss of its military economy, but thanks to an increase in tourism.

32. She called on the administering Power to make an honest assessment of its land needs in Guam and to return the excess. Any further delay in returning lands to the Government of Guam, and ultimately to the original owners, would be inexcusable. It would be an affront to the people of Guam and could generate considerable tension in relations with the military authorities of the administering Power.

33. In conclusion, she invited the Committee to send a fact-finding mission to the island with the specific task of studying the manner in which lands were being returned by the administering Power.

34. She then read out the testimony of a resident of Guam, Ms. Borja, who had been born and raised on the island and whose family had lost most of its land in the 1950s during the large-scale land confiscation campaign by the military authorities of the administering Power. She described the sufferings of the older members of her family, who had been deprived of their means of subsistence and had received inadequate compensation from the military for the land they had lost. Citing examples from her parents' experience, she drew attention to practical inconsistencies in the payment of compensation. She associated herself with the position taken by the President of the University of Guam, Dr. John Camacho Salas, the full text of whose testimony had been attached to that of Mr. Artero. In particular, she noted that families which had been deprived of their ancestral lands had lost their internal interdependence so that the younger generations were settling in places other than their traditional villages. Children were unfamiliar with their family history and deprived of their cultural heritage. The family had eventually become a collection of individuals and was unable to fulfil its function as the basic unit of society. In conclusion, she expressed the hope that the aspirations of the Chamorro people, in particular those of her family members, would to some extent be fulfilled.

35. Ms. Rios withdrew.

Question of Western Sahara

36. The CHAIRMAN said that, following the consultations carried out in connection with the request by Mr. Ruddy for a hearing on the question of Western Sahara, the members of the Bureau suggested that the Committee might wish to adopt a decision in that connection.

37. Mr. LAMAMRA (Algeria) said that the circulation of requests for hearings as Committee documents was an established practice in the Committee that had never previously been violated. Unfortunately, as a result of the unwillingness of one delegation to follow that practice, the matter in question had been blown up out of all proportion. Unless the delegation that had raised the objection revised its position, thus enabling the Committee to take the only decision consistent with existing practice and good sense, namely that Mr. Ruddy's request for a hearing should be circulated, his delegation would request that a recorded vote should be taken on the question of the circulation of Mr. Ruddy's request as a Committee document and that the results of the vote should be reflected in the record of the meeting.

38. Mr. ZAHID (Morocco) noted that the delegation of Algeria was alone in insisting on a hearing for Mr. Ruddy. Its demand was at odds with the opinion of the Legal Counsel and of the United Nations inspectors, who had concluded, after painstaking inquiries, that none of Mr. Ruddy's assertions had any substance. It was the delegation of Algeria, therefore, that was trying to foist its view on others and was unwilling to join the majority.

39. Mr. LAMAMRA (Algeria), speaking on a point of order, noted that the matter under discussion was the circulation of Mr. Ruddy's request for a hearing and not the substance of the question concerned.

40. Mr. ZAHID (Morocco) said that his delegation requested that the Legal Counsel should inform the members of the Committee officially of his opinion concerning the possibility of a hearing for Mr. Ruddy, although, in his delegation's view, most members of the Committee were already aware of the Legal Counsel's conclusions.

41. The CHAIRMAN said that he had received the Legal Counsel's opinion privately and that it had not been circulated to delegations.

42. Mr. LAMAMRA (Algeria) said that the Committee did not have before it an official document stating the opinion of the Legal Counsel on the matter in question and requested that there should be no improper references to a document that did not exist in official form. At the same time, his delegation was prepared to hear the opinion of the Legal Counsel on the circulation of the request, if the delegation of Morocco so requested.

43. Mr. ZAHID (Morocco) officially requested that the Legal Counsel should be invited to present his opinion on the matter in question to the Committee.

44. The CHAIRMAN requested the delegation of Morocco to clarify the matter on which it wished to hear the Legal Counsel's opinion: on the circulation of the request for a hearing or in connection with the hearing itself.

45. Mr. ZAHID (Morocco) said that his delegation was interested in the Legal Counsel's opinion concerning the possibility of Mr. Ruddy participating in the discussion of the matter in question as a petitioner. Morocco considered that, as a former member of the United Nations Secretariat, Mr. Ruddy was ineligible to participate. It was therefore inappropriate to circulate his request for a hearing.

46. Mr. MWAMBULUKUTU (United Republic of Tanzania) doubted the legality of discussing Mr. Ruddy's request without having sight of it and supported the idea of holding a vote on the issue.

47. Mr. HOLOHAN (Ireland) proposed that, in order to speed up the work of the Committee, a decision should be taken on the question of whether Mr. Ruddy's request for a hearing should be circulated, if necessary by taking a vote. The Committee should then be informed of the opinion of the Legal Counsel.

48. Mr. ZAHID (Morocco) said that the question of the circulation of Mr. Ruddy's request was inextricably linked to the question of whether he should be given an immediate hearing. It made no sense to circulate the request if Mr. Ruddy was subsequently denied the opportunity to take part in the discussion. The meeting should therefore be suspended in order to seek the opinion of the Legal Counsel both on the question of whether Mr. Ruddy's request should be circulated and on the question of whether or not he should participate in the discussion. That would enable the Committee to proceed in the proper manner.

49. Mr. LAMAMRA (Algeria) reminded the Committee that its current practice did not and could not admit of any obstacles to the circulation of requests for hearings, otherwise the issue of censorship might arise. On the other hand, if such a request was not submitted officially, the Legal Counsel would have no basis for giving his conclusions on the substance of the matter. The Committee was required to adhere strictly to the existing procedure, by first of all circulating the request and then taking a decision on it.

50. At the request of the Mr. Zahid (Morocco), supported by Mr. Nuñez-Mosquiera (Cuba) and Mr. Lamamra (Algeria) and in accordance with rule 118 of the rules of procedure of the General Assembly, a recorded vote was taken on the proposal that the meeting should be suspended.

In favour: Belarus, Denmark, Djibouti, Gabon, Libyan Arab Jamahiriya, Malaysia, Morocco, Mozambique, Netherlands, Saudi Arabia, Senegal, United Arab Emirates.

Against: Algeria, Argentina, Armenia, Australia, Austria, Belgium, Botswana, Brazil, Canada, Cape Verde, Chile, Cuba, Ethiopia, Finland, France, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Kenya, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Nicaragua, Nigeria, Norway, Panama, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Romania, Russian Federation, Slovakia, Spain, Swaziland, Sweden, Trinidad and Tobago, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United

Republic of Tanzania, United States of America, Uruguay, Venezuela, Zaire, Zambia, Zimbabwe.

Abstaining: Brunei Darussalam, Indonesia, Philippines, Rwanda, Singapore, Thailand, Togo, Turkey.

51. The proposal that the meeting should be suspended was rejected by 56 votes to 12, with 8 abstentions.

52. The CHAIRMAN, citing rule 131 of the rules of procedure of the General Assembly which stipulated that, when two or more proposals relating to the same question had been submitted, the proposals should be voted in the order in which they had been submitted, suggested that a recorded vote should be taken on the proposal by Algeria that Mr. Ruddy's request for a hearing should be circulated.

53. Mr. ZAHID (Morocco), speaking in explanation of vote before the voting, pointed out that decisions on questions relating to the circulation of communications and the hearing of petitioners were usually adopted by the Committee by consensus. To take a vote in the present instance might therefore set an undesirable precedent and his delegation would abstain. If the Legal Counsel had given a negative opinion concerning Mr. Ruddy's request for a hearing, the need to circulate his request and to take a vote on the question would never have arisen. He therefore urged other delegations to abstain also.

54. At the request of the representative of Algeria, a recorded vote was taken on the question of the circulation of Mr. Ruddy's request for a hearing.

In favour: Algeria, Argentina, Armenia, Australia, Austria, Bahamas, Belarus, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Canada, Cape Verde, Chile, Croatia, Cuba, Cyprus, Denmark, Ecuador, Ethiopia, Finland, France, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Italy, Jamaica, Japan, Kenya, Lao People's Democratic Republic, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mexico, Mongolia, Mozambique, Netherlands, Nicaragua, Niger, Nigeria, Norway, Panama, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Romania, Russian Federation, Rwanda, Slovakia, Spain, Swaziland, Sweden, Togo, Trinidad and Tobago, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Zambia, Zimbabwe.

Against: None.

Abstaining: Brunei Darussalam, Cameroon, Côte d'Ivoire, Djibouti, Gabon, Indonesia, Libyan Arab Jamahiriya, Morocco, Philippines, Saudi Arabia, Senegal, Singapore.

55. The Algerian proposal that Mr. Ruddy's request for a hearing should be circulated was adopted by 71 votes to none, with 12 abstentions.

56. The CHAIRMAN said that, in accordance with the decision that had just been adopted, Mr. Ruddy's request would be circulated as a document of the Committee and he would be heard at the following meeting. Replying to the comments by the representative of Cuba that certain delegations had already ascertained behind the Committee's back that the Legal Counsel was not in agreement with the Committee's working methods, he said that the Legal Counsel's opinion which he had sought had not been circulated among members of the Committee and that, if there were no objections, he would invite the Legal Counsel to state his opinion to the Committee.

57. It was so decided.

58. Mr. LAMAMRA (Algeria), referring to rule 112 of the rules of procedure of the General Assembly regarding statements by members of the Secretariat, proposed that in the current case the member of the Secretariat should make an oral statement; that would mean that delegations would have the right to ask additional questions, and that the document received by the Chairman could not be considered official if it was not circulated as an official document of the Organization in all the working languages.

59. Mr. ZAHID (Morocco) proposed that the opinion of the Legal Counsel should be circulated as an official document of the United Nations.

60. The CHAIRMAN, supported by Mr. MUMBENGEGWI (Zimbabwe), proposed that the consideration of the question should be deferred until the Legal Counsel had given an oral opinion.

61. It was so decided.

AGENDA ITEM 18: IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES (Territories not covered under other agenda items) (continued) (A/50/23 (Part V, chap. IX and Part VI, chap. X; A/AC.109/2012, 2013 and Corr.1 and Add.1, 2014, 2015 and Add.1, 2016 and Add.1, 2017 and Add.1, 2018, 2019 and Add.1, 2020 and Add.1, 2021-2023, 2025, 2028, 2029 and Add.1; S/1995/240 and Add.1, 404, 779)

AGENDA ITEM 88: INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED UNDER ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS (continued) (A/50/23 (Part IV, chap. VIII), A/50/458)

AGENDA ITEM 89: ACTIVITIES OF FOREIGN ECONOMIC AND OTHER INTERESTS WHICH IMPEDE THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES IN TERRITORIES UNDER COLONIAL DOMINATION (continued) (A/50/23 (Part III, chap. V))

AGENDA ITEM 90: IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES BY THE SPECIALIZED AGENCIES AND THE INTERNATIONAL INSTITUTIONS ASSOCIATED WITH THE UNITED NATIONS (continued) (A/50/23 (Part IV, chap. VII), A/50/212 and Add.1; A/AC.109/L.1838; E/1995/85)

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued) (A/50/3, chap. V, sect. C)

AGENDA ITEM 91: OFFERS BY MEMBER STATES OF STUDY AND TRAINING FACILITIES FOR INHABITANTS OF NON-SELF-GOVERNING TERRITORIES (continued) (A/50/481)

62. Mr. PEREZ GRIFFO (Spain) said that the question of Gibraltar affected the sovereignty and territorial integrity of Spain. The approach taken to the question of Gibraltar in General Assembly resolutions clearly demonstrated that the decolonization of that Territory was not a so-called act of self-determination, but a case of the restoration of Spain's territorial integrity. That was confirmed by the provisions of General Assembly resolutions 2353 (XXII) of 19 December 1967 and 2429 (XXIII) of 18 December 1968. On the basis of that approach the General Assembly, starting in 1973, had called upon the Governments of Spain and the United Kingdom every year to continue their bilateral negotiations in order to put an end to the anachronistic colonial situation. In that connection both countries, in the Brussels Declaration of 27 November 1984, had undertaken to conduct negotiations on the future of Gibraltar, in the framework of which they would consider issues of sovereignty and mutually advantageous cooperation. The negotiations had begun in 1985 and were still continuing. Officials of Spain and the United Kingdom were maintaining regular contacts in order to ensure coordination of the negotiations, and the Ministers for Foreign Affairs of both countries were holding periodic meetings to monitor their progress.

63. Until 1988, when Mr. Bossano had become Chief Minister, the local authorities of the colony had participated in the dialogue. Spain once again called upon the local authorities to reconsider their position, abandon the policy of confrontation and join in the negotiating process. At a recent meeting at the ministerial level held in London on 20 December 1994, the Ministers for Foreign Affairs of Spain and the United Kingdom had confirmed their support for the process begun in Brussels, recognized the importance for Gibraltar of the establishment of a sustainable economy, and agreed to cooperate in combating the growing illicit trafficking in the Gibraltar area.

64. A number of measures had been taken in Gibraltar since July to combat the illicit trafficking of some types of goods, mainly tobacco and narcotic drugs. Spain wanted Gibraltar to prosper and develop; however, that could not be achieved through income from illicit trafficking, but only through the establishment of a sound economy. Spain would always take into account the individuality and legitimate interests of the inhabitants of Gibraltar and was convinced that those interests would be duly ensured within the broad framework of Spanish autonomy and within the context of the European Union.

The meeting rose at 12.45 p.m.